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FILED

Board of Vocational Nursing
and Psychiatric Technicians

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2008-1539

12 **JENA DIANE SOLDANO, AKA**
13 **JENA DIANE SOLDANN**

ACCUSATION

14 **Vocational Nurse License No. VN 210256**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely
20 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
21 Psychiatric Technicians ("Board"), Department of Consumer Affairs.

22 **Vocational Nurse License**

23 2. On or about July 26, 2004, the Board issued Vocational Nurse License Number VN
24 210256 to Jena Diane Soldano, also known as Jena Diane Soldann ("Respondent"). The
25 vocational nurse license was in full force and effect at all times relevant to the charges brought
26 herein and will expire on August 31, 2012, unless renewed.

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STATUTORY PROVISIONS

3. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

5. Code section 2878 states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee.

6. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in subdivision (b).

1 7. Code section 4060 states, in pertinent part:

2 No person shall possess any controlled substance, except that furnished to
3 a person upon the prescription of a physician, dentist, podiatrist, or veterinarian.

4 8. Health and Safety Code section 11173, subdivision (a) states:

5 No person shall obtain or attempt to obtain controlled substances, or
6 procure or attempt to procure the administration of or prescription for controlled
7 substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by
8 concealment of a material fact.

8 COST RECOVERY

9 9. Code section 125.3 provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 10. **Controlled Substances**

14 "Norco" is a trade name for the controlled substance hydrocodone bitartrate and is a
15 Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision
16 (b)(1)(J), and a dangerous drug pursuant to Business and Professions Code section 4022, in that
17 under federal or state law it requires a prescription.

18 "Percocet" is a trade name for the controlled substance oxycodone hydrochloride and is a
19 Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision
20 (b)(1)(N) and a dangerous drug pursuant to Business and Professions Code section 4022, in that
21 under federal or state law it requires a prescription.

22 FIRST CAUSE FOR DISCIPLINE

23 (Criminal Conviction)

24 11. Respondent has subjected her license to discipline pursuant to Code section 2878,
25 subdivision (f) in that Respondent has been convicted of the following crimes that are
26 substantially related to the qualifications, functions, or duties of a vocational nurse:

27 a. On or about December 21, 2009, in the Superior Court, County of Shasta, California,
28 in the matter entitled *People vs. Jena Diane Soldano*, 2009, Case No. 09-02647, Respondent was

1 convicted following her plea of nolo contendere of a violation of Health and Safety Code section
2 11190 (failure to keep record of controlled substance issued), a misdemeanor. The circumstances
3 of the crime are that between August 1, 2008, and September 22, 2008, Respondent unlawfully
4 dispensed and administered controlled substances without documenting the name and address of
5 each patient, the date, character, and quantity of controlled substances involved and the pathology
6 and purpose for which the prescription was issued.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Conviction of a Crime Involving Controlled Substances)**

9 12. Respondent is subject to discipline pursuant to Code section 2878, subdivision (a), on
10 the grounds of unprofessional conduct, as defined by Code section 2878.5, subdivision (c), in that
11 Respondent has been convicted of crimes involving the documentation of controlled substances,
12 as more particularly set forth in paragraph 11, above.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **Obtained and Possessed Controlled Substances in Violation of Law)**

15 13. Respondent is subject to discipline pursuant to Code section 2878, subdivision (a), on
16 the grounds of unprofessional conduct, as defined in Code section 2878.5, subdivision (a), in that
17 between August 1, 2008, and September 22, 2008, while on duty as a registered nurse at **Oak**
18 **River Nursing and Rehabilitation, Anderson, California**, Respondent committed the following
19 acts:

20 a. Respondent obtained the controlled substances Norco and Percocet by fraud, deceit,
21 misrepresentation or subterfuge by taking the drugs from hospital supplies in violation of Health
22 and Safety Code section 11173, subdivision (a).

23 b. Respondent possessed the controlled substances Norco and Percocet without lawful
24 authority in violation of Code section 4060.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Grossly Unintelligible or Inconsistent Entries in Hospital/Patient Records)**

27 14. Respondent is subject to discipline pursuant to Code section 2878, subdivision (a), on
28 the grounds of unprofessional conduct, as defined in Code section 2878.5, subdivision (e), in that

1 between August 1, 2008, and September 22, 2008, while on duty as a registered nurse at **Oak**
2 **River Nursing and Rehabilitation, Anderson, California**, Respondent falsified, or made
3 grossly incorrect, grossly inconsistent or unintelligible entries in patient and/or hospital records as
4 follows:

5 **Patient A**

6 a. On August 4, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets from the
7 Controlled Drug Record for this patient; however, Respondent failed to document the
8 administration of any portion of the Percocet in the patient's medication administration record or
9 otherwise account for the disposition of the Percocet in any hospital record.

10 b. On August 5, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets from the
11 Controlled Drug Record for this patient; however, Respondent failed to document the
12 administration of any portion of the Percocet in the patient's medication administration record or
13 otherwise account for the disposition of the Percocet in any hospital record.

14 c. On August 10, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets from
15 the Controlled Drug Record for this patient; however, Respondent failed to document the
16 administration of any portion of the Percocet in the patient's medication administration record or
17 otherwise account for the disposition of the Percocet in any hospital record.

18 d. On August 11, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets from
19 the Controlled Drug Record for this patient; however, Respondent failed to document the
20 administration of any portion of the Percocet in the patient's medication administration record or
21 otherwise account for the disposition of the Percocet in any hospital record.

22 e. On August 16, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets from
23 the Controlled Drug Record for this patient; however, Respondent failed to document the
24 administration of any portion of the Percocet in the patient's medication administration record or
25 otherwise account for the disposition of the Percocet in any hospital record.

26 f. On August 22, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets from
27 the Controlled Drug Record for this patient; however, Respondent failed to document the
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1 administration of any portion of the Percocet in the patient's medication administration record or
2 otherwise account for the disposition of the Percocet in any hospital record.

3 g. On August 23, 2008, at 1530 hours, Respondent signed out 2 Percocet tablets from
4 the Controlled Drug Record for this patient; however, Respondent failed to document the
5 administration of any portion of the Percocet in the patient's medication administration record or
6 otherwise account for the disposition of the Percocet in any hospital record.

7 h. On August 28, 2008, at 1530 hours, Respondent signed out 2 Percocet tablets from
8 the Controlled Drug Record for this patient; however, Respondent failed to document the
9 administration of any portion of the Percocet in the patient's medication administration record or
10 otherwise account for the disposition of the Percocet in any hospital record.

11 i. On August 29, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets from
12 the Controlled Drug Record for this patient; however, Respondent failed to document the
13 administration of any portion of the Percocet in the patient's medication administration record or
14 otherwise account for the disposition of the Percocet in any hospital record.

15 j. On September 3, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets from
16 the Controlled Drug Record for this patient; however, Respondent failed to document the
17 administration of any portion of the Percocet in the patient's medication administration record or
18 otherwise account for the disposition of the Percocet in any hospital record.

19 k. On September 4, 2008, at 1530 hours, Respondent signed out 2 Percocet tablets from
20 the Controlled Drug Record for this patient; however, Respondent failed to document the
21 administration of any portion of the Percocet in the patient's medication administration record or
22 otherwise account for the disposition of the Percocet in any hospital record.

23 l. On September 9, 2008, at 1530 hours, Respondent signed out 2 Percocet tablets from
24 the Controlled Drug Record for this patient; however, Respondent failed to document the
25 administration of any portion of the Percocet in the patient's medication administration record or
26 otherwise account for the disposition of the Percocet in any hospital record.

27 m. On September 10, 2008, at 1600 hours, Respondent signed out 2 Percocet tablets
28 from the Controlled Drug Record for this patient; however, Respondent failed to document the

1 administration of any portion of the Percocet in the patient's medication administration record or
2 otherwise account for the disposition of the Percocet in any hospital record.

3 n. On September 15, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets
4 from the Controlled Drug Record for this patient; however, Respondent failed to document the
5 administration of any portion of the Percocet in the patient's medication administration record or
6 otherwise account for the disposition of the Percocet in any hospital record.

7 o. On September 16, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets
8 from the Controlled Drug Record for this patient; however, Respondent failed to document the
9 administration of any portion of the Percocet in the patient's medication administration record or
10 otherwise account for the disposition of the Percocet in any hospital record.

11 p. On September 21, 2008, at 1600 hours, Respondent signed out 2 Percocet tablets
12 from the Controlled Drug Record for this patient; however, Respondent failed to document the
13 administration of any portion of the Percocet in the patient's medication administration record or
14 otherwise account for the disposition of the Percocet in any hospital record.

15 q. On September 22, 2008, at 1500 hours, Respondent signed out 2 Percocet tablets
16 from the Controlled Drug Record for this patient; however, Respondent failed to document the
17 administration of any portion of the Percocet in the patient's medication administration record or
18 otherwise account for the disposition of the Percocet in any hospital record.

19 r. On September 27, 2008, at 1500 hours, Respondent signed out 3 Percocet tablets
20 from the Controlled Drug Record for this patient, which exceeded the physician orders.
21 Respondent failed to document the administration or wastage of any portion of the Percocet in the
22 patient's medication administration record or otherwise account for the disposition of the
23 Percocet in any hospital record.

24 **Patient B**

25 s. On August 5, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from the
26 Controlled Drug Record for this patient; however, Respondent failed to document the
27 administration of any portion of the Norco in the patient's medication administration record or
28 otherwise account for the disposition of the Norco in any hospital record.

1 t. On August 16, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from the
2 Controlled Drug Record for this patient; however, Respondent failed to document the
3 administration of any portion of the Norco in the patient's medication administration record or
4 otherwise account for the disposition of the Norco in any hospital record.

5 u. On August 17, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from the
6 Controlled Drug Record for this patient; however, Respondent failed to document the
7 administration of any portion of the Norco in the patient's medication administration record or
8 otherwise account for the disposition of the Norco in any hospital record.

9 v. On August 22, 2008, at 2100 hours, Respondent signed out 1 Norco tablet from the
10 Controlled Drug Record for this patient; however, Respondent failed to document the
11 administration of any portion of the Norco in the patient's medication administration record or
12 otherwise account for the disposition of the Norco in any hospital record.

13 w. On August 23, 2008, at 2100 hours, Respondent signed out 1 Norco tablet from the
14 Controlled Drug Record for this patient; however, Respondent failed to document the
15 administration of any portion of the Norco in the patient's medication administration record or
16 otherwise account for the disposition of the Norco in any hospital record.

17 x. On September 9, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from the
18 Controlled Drug Record for this patient; however, Respondent failed to document the
19 administration of any portion of the Norco in the patient's medication administration record or
20 otherwise account for the disposition of the Norco in any hospital record.

21 y. On September 10, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from
22 the Controlled Drug Record for this patient; however, Respondent failed to document the
23 ~~administration of any portion of the Norco in the patient's medication administration record or~~
24 otherwise account for the disposition of the Norco in any hospital record.

25 z. On September 16, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from
26 the Controlled Drug Record for this patient; however, Respondent failed to document the
27 administration of any portion of the Norco in the patient's medication administration record or
28 otherwise account for the disposition of the Norco in any hospital record.

1 aa. On September 21, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from
2 the Controlled Drug Record for this patient; however, Respondent failed to document the
3 administration of any portion of the Norco in the patient's medication administration record or
4 otherwise account for the disposition of the Norco in any hospital record.

5 bb. On September 22, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from
6 the Controlled Drug Record for this patient; however, Respondent failed to document the
7 administration of any portion of the Norco in the patient's medication administration record or
8 otherwise account for the disposition of the Norco in any hospital record.

9 cc. On September 27, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from
10 the Controlled Drug Record for this patient; however, Respondent failed to document the
11 administration of any portion of the Norco in the patient's medication administration record or
12 otherwise account for the disposition of the Norco in any hospital record.

13 dd. On September 28, 2008, at 2000 hours, Respondent signed out 1 Norco tablet from
14 the Controlled Drug Record for this patient; however, Respondent failed to document the
15 administration of any portion of the Norco in the patient's medication administration record or
16 otherwise account for the disposition of the Norco in any hospital record.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Dishonesty)**

19 15. Respondent is subject to discipline pursuant to Code section 2878, subdivision (j), in
20 that on or about March 10, 2008, while on duty as a licensed vocational nurse at **Windsor**
21 **Redding Care Center, Redding, California**, Respondent committed an act involving dishonesty
22 related to the duties and functions of a vocational nurse. Respondent documented in patient
23 G.S.'s patient record that she had performed a dressing change when, in fact, she had not.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
27 issue a decision:
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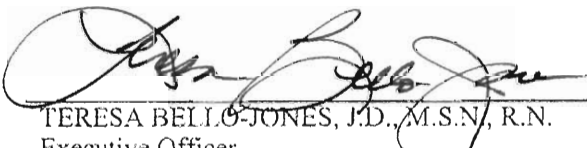
- 1 1. Revoking or suspending Vocational Nurse License Number VN 210256, issued to
- 2 Jena Diane Soldano, also known as Jena Diane Soldann;
- 3 2. Ordering Jena Diane Soldano, also known as Jena Diane Soldann to pay the Board of
- 4 Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and
- 5 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
- 6 3. Taking such other and further action as deemed necessary and proper.

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10 DATED: March 18, 2011.


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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